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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,390	03/17/2004	Zion Azar	299/03782	3668
44909	7590	12/14/2006	EXAMINER	
WOLF, BLOCK, SCHORR & SOLIS-COHEN LLP			AHMED, HASAN SYED	
250 PARK AVENUE			ART UNIT	PAPER NUMBER
NEW YORK, NY 10177			1615	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/802,390		AZAR ET AL	
	<b>Examiner</b>		<b>Art Unit</b>	
	Hasan S. Ahmed		1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

Receipt is acknowledged of applicants' remarks, which were filed on 26 September 2006.

\* \* \* \* \*

### NEW REJECTIONS

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3, 5, and 7-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Specifically, the specification does not disclose how a ring of elastomer or sponge material (i.e. a ring made of the same material as the backing) can reduce contact between the edge of the abrasive pad and a surface being abraded. A ring of the same material as the backing will relent to the same extent as the backing if subject to the same pressure.

\* \* \* \* \*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 5 and 10 recite the limitation "protective ring". There is insufficient antecedent basis for this limitation in the claim, since neither claim 3, nor claim 7 recite the term "protective."

**MAINTAINED REJECTION*****Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Martin, *et. al.* (U.S. Patent No. 5,671,498) in view of Crabtree, *et. al.* (U.S. Patent No. 5,791,008).

Martin, *et. al.* teach a scrubbing device (see col. 1, lines 4-10).

The disclosed scrubbing device is comprised of: (1) an abrasive surface; (2) a sponge material backing the abrasive surface (see col. 6, lines 48-67; Figures 4 and 5); and (3) a protective ring (see col. 6, lines 48-67; Figures 4 and 5). The sponge material has an end that is remote from the abrasive surface (see items 60 and 62 in Figure 4), and is cylindrical in shape (see col. 6, lines 48-67; Figures 4 and 5).

Martin, *et. al.* explain that their invention is useful for "...exfoliation of dead skin cells from the epidermis or surface skin of a human body..." See col. 5, lines 13-16.

The Martin, *et. al.* reference differs from the instant case in that it does not disclose flaps formed by slits in the spongy material.

Crabtree teaches a sponge material with two slits starting at the edge of the sponge material, such that flaps formed by the slits can be folded back (see col. 1, line 65 – col. 2, line 5; Figures 1, 2, 6 and 7).

Crabtree explains that her invention is beneficial because the sponge will have an even contact surface with smooth flow and even application of substances being used on the sponge (see col. 1, lines 9-11).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add flaps and a protective ring to an a sponge pad, as taught by Martin, *et. al.* in view of Crabtree. Motivation to add flaps to a sponge pad, as disclosed by Crabtree, would come from the beneficial effects of an even contact surface with smooth flow and even application of substances being used on the sponge, as discussed above.

Those of ordinary skill in the art would expect similar effects from the instant sponge pad, given the teachings of Martin, *et. al.* in view of Crabtree. Thus, the instant invention would have been obvious, given the teachings of Martin, *et. al.* in view of Crabtree.

\* \* \* \* \*

### ***Response to Arguments***

Applicant's arguments filed 26 September 2006 have been fully considered but they are not persuasive.

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1. Applicants argue that, "In Martin's apparatus, the sponge is inside the abrasive surface so it does not have an end remote from the abrasive surface (whatever the shape)." See REMARKS, page 2, paragraph 7.

Examiner respectfully submits that the Martin reference reads on the instant application as claimed. Affording claim 1 its broadest reasonable interpretation, one could certainly read the base of the Martin apparatus to be an end that is remote from the abrasive surface.

It should be noted that the term "remote" is not defined in the specification.

2. Applicants argue that "it makes no sense" to combine the Crabtree reference with the Martin reference See REMARKS, page 2, last paragraph – page 3, first paragraph.

Examiner respectfully submits that the teachings of Crabtree may reasonably be combined with the teachings of Martin in light of the instant application as claimed. Again, affording the instant claims their broadest reasonable interpretation, one can reasonably envision the flaps at the bases of the Martin invention for the purpose of providing an even contact surface with smooth flow and even application of substances being used on the sponge, as explained by Crabtree.

3. Regarding instant claim 7, applicants argue that, "There is no motivation to provide any material to reduce the contact between the edge of the abrasive surface and a surface being abraded" See REMARKS, page 3, last paragraph.

Examiner respectfully submits that claim 7 recites, "to reduce contact between the edge of the abrasive pad and a surface being abraded." This language is vastly different from the language quoted above. Affording the instant claims their broadest

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reasonable interpretation, examiner respectfully submits that the ring of the Martin apparatus may reasonably function to reduce contact between the edge of the abrasive pad and a surface being abraded. It is *the edge of the abrasive pad*, not the edge of the abrasive surface, that is being claimed.

It should be noted that applicants have not shown an unexpected result from a protective ring of the same material as the backing.



### ***Correspondence***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hasan S. Ahmed whose telephone number is 571-272-4792. The examiner can normally be reached on 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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